

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

SIERRA CLUB,

*Plaintiff,*

vs.

ENERGY FUTURE HOLDINGS  
CORPORATION and LUMINANT  
GENERATION COMPANY LLC,

*Defendants.*

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Civil Action No. 6:12-cv-00108-WSS

**SIERRA CLUB’S NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff Sierra Club hereby notifies the Court of the issuance of a new opinion by the Fifth Circuit Court of Appeals superseding its opinion in *Luminant Generation Co. v. U.S. EPA*, 699 F.3d 427 (5th Cir. 2012), an opinion cited by both the Defendants and Plaintiff in this action. On March 25, 2013 (the same day that Sierra Club filed its reply in support of its motion for partial summary judgment), the Fifth Circuit issued the new opinion, which is attached as Exhibit 1. This new, March 25, 2013, opinion is fully consistent with the previous, withdrawn, opinion. The exact language (from the withdrawn opinion) that Sierra Club quoted and cited in support of its pending motion for partial summary judgment is in the new opinion. *See* highlighted text in Exhibit 1.

Dated: March 29, 2013

Respectfully submitted,

/s/ Ilan Levin

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**CERTIFICATE OF SERVICE**

On this 29<sup>th</sup> day of March 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

/s/ Ilan Levin

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